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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,758	08/25/2003	Earl Roger Singleton	S146 1080.1	2785
26158	7590	05/20/2005	EXAMINER	
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC			MAYO, TARA L	
P.O. BOX 7037			ART UNIT	
ATLANTA, GA 30357-0037			PAPER NUMBER	
			3671	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,758

Applicant(s)

SINGLETON, EARL ROGER

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 18-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The use of the trademark NYLON has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

2. The prior objections to the claims have been overcome by the response filed 25 February 2005.

3. Claims 7 and 18 are objected to because of the following informalities: minor claim drafting errors.

In claim 7 on line 1, immediately following “wherein” and prior to “at least” insert --said--.

In claim 18 on line 2, delete the trademark NYLON and insert the generic terminology therefor (i.e., polyamide).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 through 7 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Difloe et al. (U.S. Patent No. 5,585,161).

Difloe et al. '161, as seen in Figure 1a, shows a geotextile filtration device (10; col. 5, lines 51 through 53) comprising:

with regard to claim 1,

a first non-woven web (18) adapted to retain silt while permitting water to pass therethrough;

at least one reinforcing element (26) and capable of receiving a fastener for attaching the device to a support member;

with regard to claim 2,

wherein said first non-woven web comprises spun bond polyester (col. 4, lines 37 through 39);

with regard to claim 3,

wherein said reinforcing element comprises a woven or non-woven band (26);
with regard to claim 4,

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wherein said band comprises a plurality of reinforcing strands (col. 4, lines 29 through 30);

with regard to claim 5,

wherein said plurality of reinforcing strands comprises a polymeric material (col. 4, lines 28 through 30);

with regard to claims 6,

further comprising a second water-permeable non-woven web layered on said first non-woven web (i.e., the first and second webs being the opposing web portions surrounding the embedded reinforcing element);

with regard to claims 7,

wherein said at least one reinforcing element is disposed at selected locations between a portion of said first non-woven web and a portion of said second non-woven web;

with regard to claim 19,

wherein said band is formed from twisted yarns (col. 4, lines 30 through 32).

6. Claims 24 through 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Gagliardi et al. (U.S. Patent No. 4,279,535).

Gagliardi et al. '535 as seen in Figures 1 through 7, disclose a silt retention system comprising:

with regard to claim 24,

a filter material (15) for filtering and retaining silt from a fluid while permitting fluid to pass therethrough, the material including at least one reinforcing element (13); and

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a support member (23) for anchoring the filter material, the support member being fastened to the reinforcing element;

with regard to claim 25,

wherein said at least one reinforcing element comprises a plurality of reinforcing strands (17 and 19); and

with regard to claim 26,

wherein said filter material is permeable to water and impermeable to silt.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 18 and 20 through 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Difloe et al. (U.S. Patent No. 5,585,161).

Difloe et al. '161, as seen in Figure 1a, disclose
with regard to claim 20,

a sheet comprising a nonwoven web (18) having at least one reinforcing element (26) embedded therein, wherein said nonwoven web is permeable to water;
with regard to claim 21,

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wherein said at least one reinforcing element comprises a plurality of reinforcing bands positioned at spaced locations; and

with regard to claim 22,

wherein said at least one reinforcing element comprises a series of strands spun to form a band (col. 4, lines 29 through 30).

Difloe et al. '161 teach all of the limitations of the claimed invention with the exception(s) of:

with regard to claim 18,

the polymeric material comprising polypropylene, polyester, nylon or any combination thereof;

with regard to claim 20,

the sheet being substantially impermeable to silt; and

with regard to claim 23,

further comprising a reinforcement border.

With regard to claim 18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the plurality of reinforcing strands from polypropylene in view of the broad teaching by Difloe et al. '161 for a polymer. The motivation would have been to use a chemically resistant, fatigue resistant and heat resistant material.

With regard to claim 20, Difloe et al. '161 do not expressly teach the device being substantially impermeable to silt. However, all of the claimed features are taught by Difloe et al.

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'161 and retention of silt only requires a change in porosity of the nonwoven web (i.e., spacing between the fibers) sufficient to prevent the passing of soil particles 0.002 mm in size. As such, it would have been obvious for one in the art of textiles at the time the invention was made to modify the device shown by Difloe et al. '161 such that it would have porosity sufficient to retain silt particles since such a change requires only routine skill in the art.

With regard to claim 23, it would have been obvious to one having ordinary skill in the art of textiles at the time the invention was made to modify the device shown by Difloe et al. '161 such that it would include a border. The motivation would have been to secure the orientation of the fibers and other components of the device.

Response to Arguments

9. Applicant's arguments filed 25 February 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Difloe et al. '161 is nonanalogous art, the Examiner notes the reference meets all of the structural limitations of Applicant's invention as broadly recited in the claims and is capable of performing the recited functions.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a material sufficiently robust to minimize or prevent tearing at points of attachment to stakes at construction sites, along roads and streams, etc.; and the support member being a stake or post) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

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limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be "JH" or similar, with the letters "tim" written below it.

16 May 2005

A handwritten signature in black ink, consisting of several sweeping, overlapping strokes.

GARY S. HARTMANN
PRIMARY EXAMINER